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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,478	02/01/2001	Luther Stoddard	17427-US	1172

7590

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EXAMINER

KIM, EUGENE LEE

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 05/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/701,478

Applicant(s)

STODDARD ET AL.

Examiner

Eugene Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (CA 2064270) in view of Andersson et al (#5,155,799). Davis substantially shows the claimed method and apparatus including flattening a neck portion, gathering the flattened portion and attaching a reusable closure 25 to the neck. Davis also shows belt means 15, brush means 13 and perforating means as claimed. Figure 2 shows the sealing means 17 and gripping means 15 to grip the end while sealing. Davis does not show the heating means as claimed. Davis shows heating means 17 to seal the web but does not show the hot air means as claimed. Andersson et al teach the concept of sealing webs using heated air means. Andersson et al disclose that hot air has advantages with regard to rapid and concentrated heating (col 2 lines 8+). The heated air is disclosed as having a temperature range between 300 and 500 degrees Celsius. *Andersson 5B*
Davis also discloses that the hot air is distributed to two nozzles 7. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Davis with hot air means as taught by Andersson et al to provide the advantages with rapid and concentrating heating means. Regarding the location of parts, such as, the location of air dispensers, the examiner notes that little patentable weight is given to the location

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of parts unless there is some criticality or unexpected result from the location. See in re Japikse, 86 USPQ 70 (CCPA 1950). Regarding the temperature as claimed, Andersson et al show a temperature range as discussed supra. Optimum ranges via experimentation are known and little patentable weight is given unless the particular range imparts new and unexpected result, which are different in kind, and not merely degree. See in re Dreyfus, 22 CCPA (Patents) 830, 73 F.2d 9312; in re Waite et al, 35 CCPA (Patents) 1117, 168 F.2d 104.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-13, 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis (CA 2064270). Davis shows a product tampering sealed bags that enclose bakery products (p. 3 lines 5+), with a reclosable bag with a row of perforations forming a tamper evident tear of strip. Davis discloses that the reclosable closure member may be wire, tape, plastic clip etc... (p. 8 lines 3+).

Claim Rejections - 35 USC § 103

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis. As discussed supra, Davis discloses that the closure element may be wire, tape, a

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plastic clip, etc. but does not disclose a twisted ribbon. The examiner notes that it is well known in the art to use ribbons as closure elements.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Kim whose telephone number is (703)308-1886. The examiner can normally be reached on Tuesday-Friday 7:30 a.m - 6:00 p.m.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.



Eugene Kim
April 30, 2002